

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ELIZABETH PODLACH,

Plaintiff,

-against-

VILLAGE OF SOUTHAMPTON, SOUTHAMPTON
VILLAGE POLICE DEPARTMENT, POLICE OFFICER
ASHLEY E. JONES, JANE DOE 1, JOHN DOE 1, and
JOHN DOE 2, in their individual and official capacities,

Defendants.
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ORDER

14-cv-6954 (SJF)(SIL)

**FILED
CLERK**

4:01 pm, Jun 06, 2017

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

FEUERSTEIN, District Judge:

Plaintiff Elizabeth Podlach (“Plaintiff” or “Podlach”) commenced this action against Defendants Village of Southampton, Southampton Village Police Department, Police Officer Ashley E. Jones, Jane Doe 1, John Doe 1, and Jane Doe 2 (collectively, “Defendants”), alleging various civil rights violations and state law causes of action. *See* Docket Entry (“DE”) [1]. On February 25, 2016, the Court granted Defendants’ motion to dismiss Plaintiff’s Complaint pursuant to Fed. R. Civ. P. 12(b)(6), and granted Plaintiff leave to file an amended complaint. DE [25]. On June 16, 2016, Plaintiff filed a timely Amended Complaint in which she asserts substantially similar cause of action against Defendants. DE [26]. Presently before the Court is Magistrate Judge Steven I. Locke’s May 11, 2017 Report and Recommendation (the “Report”) recommending that Defendants’ motion to dismiss Plaintiff’s Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure be granted. DE [38]. For the reasons set forth herein, the Court adopts Magistrate Judge Locke’s Report in its entirety.

Pursuant to Fed. R. Civ. P. 72, a magistrate judge may conduct proceedings of dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). The district court may accept, reject, or modify, in whole or in part, the findings and recommendations of the magistrate

judge. *DeLuca v. Lord*, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994); *see also* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Where there are no specific written objections to a magistrate judge's report and recommendation, the district court may accept the findings contained therein as long as the factual and legal bases supporting the findings are not clearly erroneous. *Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 472 (1985). Therefore, to accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district court need only be satisfied that there is no clear error on the face of the record. *See* Fed. R. Civ. P. 72(b); *Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007), *aff'd*, 305 F. App'x 815 (2d Cir. 2009); *Baptichon v. Nevada State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), *aff'd*, 125 F. App'x 374 (2d Cir. 2005).

No objections to Magistrate Judge Locke's May 11, 2017 Report have been filed, and the deadline to object has expired.¹ *See* 28 U.S.C. § 636(b)(1) (requiring that objections be filed within fourteen (14) days of being served with a copy of the report and recommendation); Fed. R. Civ. P. 72(b)(2). Upon review, the Court is satisfied that the Report is not facially erroneous. Therefore, Magistrate Judge Locke's Report is adopted in its entirety, and Defendant's motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) is granted. The Clerk of Court is directed to enter judgment in favor of Defendants and close this case.

Dated: Central Islip, New York
June 6, 2017

SO ORDERED.

s/ Sandra J. Feuerstein
Sandra J. Feuerstein
United States District Judge

¹ Defendants served Plaintiff with a copy of Magistrate Judge Locke's Report on May 16, 2017. DE [39].